

Jury instructions: **Randle v. Alameda County.**

3.01 DUTIES OF JURY TO FIND FACTS AND FOLLOW LAW

Members of the jury, now that you have heard all the evidence and the arguments of the attorneys, it is my duty to instruct you on the law which applies to this case. A copy of these instructions will be available in the jury room for you to consult if you find it necessary.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. You must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath promising to do so at the beginning of the case.

In following my instructions, you must follow all of them and not single out some and ignore others; they are all equally important. You must not read into these instructions or into anything the court may have said or done any suggestion as to what verdict you should return--that is a matter entirely up to you.

3.02 USE OF NOTES

You may use notes taken during trial to assist your memory. Notes, however, should not be substituted for your memory, and you should not be overly influenced by the notes.

3.03 WHAT IS EVIDENCE

The evidence from which you are to decide what the facts are consists of:

1. the sworn testimony of witnesses, on both direct and cross-examination, regardless of who called the witness;
2. the exhibits which have been received into evidence; and
3. any facts to which all the lawyers have agreed or stipulated.

3.05 WHAT IS NOT EVIDENCE

In reaching your verdict, you may consider only the testimony and exhibits received into evidence. Certain things are not evidence, and you may not consider them in deciding what the facts are. I will list them for you:

1. Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of them controls.
2. Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it.
3. Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition some testimony has been received only for a limited purpose; where I have given a limiting instruction, you must follow it.
4. Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

3.06 DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what the witness personally saw or heard or did. For example, the witness testifies “I saw Joe break the glass”. Circumstantial evidence is proof of one or more facts from which you could find another fact. For example, the witness testifies “I saw Joe holding the glass before I left the room. No one else was in it. When I returned, the broken glass was lying at Joe’s feet.” You could find that Joe had broken the glass in either example. You must consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

3.07 CREDIBILITY OF WITNESSES

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it.

In considering the testimony of any witness, you may take into account:

1. the opportunity and ability of the witness to see or hear or know the things testified to;
2. the witness' memory;
3. the witness' manner while testifying;
4. the witness' interest in the outcome of the case and any bias or prejudice;
5. whether other evidence contradicted the witness' testimony;
6. the reasonableness of the witness' testimony in light of all the evidence; and
7. any other factors that bear on believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify.

5.01 BURDEN OF PROOF--PREPONDERANCE OF THE EVIDENCE

When a party has the burden of proof on any claim by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim is more probably true than not true. This means that if you conclude that the weight of the evidence on a claim is evenly balanced, you must find for the defendants. If you conclude that the weight of the evidence favors the plaintiff, even slightly, you must find for her.

You should base your decision on all of the evidence, regardless of which party presented it.

“Proximate Cause” Defined

An injury or damage is proximately caused by an act, or a failure to act, if the act or omission played a substantial part in bringing about or actually causing the injury or damage, and the injury or damage was either a direct result or a reasonably probable consequence of the act or omission.

Instructions on Section 1983 Claim

Plaintiff has brought this lawsuit under a federal statute, 42 U.S.C. section 1983, which provides a right to sue for the violation of rights protected under the United States Constitution.

The Fourth Amendment to the United States Constitution provides that:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Fourteenth Amendment to the United States Constitution provides that:

"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws".

Every person has the Constitutional right not to be subjected to unreasonable seizure, restraint or incarceration and not to be restrained or incarcerated without due process of law.

If a person is arrested without a warrant, the arrest violates the Fourth Amendment, unless it is made with probable cause. Probable cause exists when the facts available to the officers at the moment of the arrest would lead a person of reasonable caution to believe that an offense has been committed. If the facts available to the officers at the moment of the arrest would *not* lead a person of reasonable caution to believe that an offense has been committed, then probable cause does not exist.

Elements and Burden of Proof

Plaintiff's civil rights claim is in two parts:

I. First, plaintiff claims that Deputy Twigg and the County of Alameda violated her rights under the Fourth and Fourteenth Amendments when she was not released immediately after she fulfilled all the conditions of her release on her own recognizance (O.R.).

A. To prevail on this claim against Deputy Twigg, plaintiff must prove the following by a preponderance of the evidence:

1. That following the order of the Superior Court that she be released from custody, plaintiff performed all conditions imposed by the court for her release from custody, and
2. That Deputy Twigg intentionally did not release her, and
3. That Deputy Twigg's acts or omissions were the proximate cause of the deprivation of the plaintiff's rights protected by the Constitution of the United States.

B. To prevail on this claim against the County of Alameda, plaintiff must prove the following by a preponderance of the evidence:

1. That the conduct of Deputy Twigg was the result of an official policy, or a custom having the force of policy, of the County of Alameda.
2. That the application of that policy or custom was the proximate cause of the deprivation of plaintiff's constitutional rights.

II. Second, plaintiff claims that, after she was returned to the holding cell at the Fremont Municipal Court, Deputy Twigg violated her constitutional rights when he erroneously released Ms. St. Jules and caused plaintiff, rather than Ms. St. Jules, to be transported to Santa Rita jail, and then caused plaintiff to continue to be held in custody without probable cause by providing incorrect information that plaintiff aided the escape of Ms. St. Jules.

To prevail on this claim against Deputy Twigg, plaintiff must prove the following by a preponderance of the evidence:

1. That she was held in custody in violation of her constitutional rights as a proximate result of incorrect information intentionally given to other officers and to the court by Deputy Twigg.
2. That Deputy Twigg's acts or omissions were the proximate cause of the deprivation of the plaintiff's rights protected by the Constitution of the United States.

If as to a particular component of Plaintiff's claim Plaintiff has failed to prove each of the things on which she has the burden of proof, your verdict should be for the defendant.

MUNICIPAL LIABILITY - 42 U.S.C. § 1983

When a plaintiff is deprived of a constitutional right as a result of the official policy of a county, the county is liable for the deprivation.

“Official policy” means:

- a. A rule or regulation promulgated, adopted, or ratified by the county’s legislative body;
- b. A policy statement or decision that is officially made by the county’s lawmaking officer or policy-making official;
- c. A custom that is a permanent, widespread, well-settled practice that constitutes a standard operating procedure of the county; or
- d. An act or omission ratified by the county’s lawmaking officer or policy-making official.

Official Policy Makers

A policy or practice approved or ratified by the Sheriff of Alameda County constitutes official policy of the County of Alameda.

Intentional State of Mind - Defined

An act is intentional if it is done knowingly -- that is if it is done voluntarily and deliberately and not because of mistake, accident, negligence or other reason.

No Specific Intent Requirement

It is not necessary to find that any defendant had a specific intent to deprive plaintiff of her civil rights in order to find in favor of the plaintiff. The plaintiff is entitled to relief if intentional conduct by the defendants resulted in the violation of her rights.

Damages for Deprivation of Civil Rights-Actual or Nominal

If you find for the plaintiff, you must determine plaintiff's damages.

Plaintiff has the burden of proving damages by a preponderance of the evidence.

Damages means the amount of money which will reasonably and fairly compensate the plaintiff for the deprivation of civil rights proximately caused by the defendant. You should consider the following: The nature and extent of the injuries, and the mental, emotional pain and suffering experienced.

If you find for the plaintiff, but you find that the plaintiff has failed to prove actual damages, you shall return an award of nominal damages not to exceed one dollar.

7.5 PUNITIVE DAMAGES

If you find for plaintiff, and if you award compensatory or nominal damages, you may, but are not required to, award punitive damages. The purposes of punitive damages are to punish a defendant and to deter a defendant and others from committing similar acts in the future.

Plaintiff has the burden of proving that punitive damages should be awarded, and the amount, by a preponderance of the evidence. You may award punitive damages only if you find that defendant's conduct was malicious, or in reckless disregard of plaintiff's rights. Conduct is malicious if it is accompanied by ill will, or spite, or if it is for the purpose of injuring another. Conduct is in reckless disregard of plaintiff's rights if, under the circumstances, it reflects complete indifference to the safety and rights of others.

If you find that punitive damages are appropriate, you must use reason in setting the amount. Punitive damages, if any, should be in an amount sufficient to fulfill their purposes but should not reflect bias, prejudice or sympathy toward any party. In considering punitive damages, you may consider the degree of reprehensibility of the defendant's conduct and the relationship of any award of punitive damages to any actual harm inflicted on the plaintiff.

Punitive damages may not be awarded against the County of Alameda on any of plaintiff's claims. Punitive damages may be awarded against Deputy Twigg even if you award plaintiff only nominal, and not compensatory, damages.

3.14 DUTY TO DELIBERATE

When you retire, you should elect one member of the jury as your foreperson. That person will preside over the deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully and with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. Do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict.

3.13 COMMUNICATION WITH COURT

If it becomes necessary to communicate with me during deliberations, you may send a folded note through the marshal or clerk, signed by a juror. Do not disclose the content of your note to the marshal or clerk.

Do not communicate with the court about the case except by a signed note. I will only communicate with you regarding the case in writing or in open court.

Do not disclose any vote count in any note to the court.

3.15 RETURN OF VERDICT

After you have reached unanimous agreement on a verdict, your foreperson will fill in, date, and sign the verdict form or forms and advise the marshal in whose charge you will be that you have reached a verdict.